

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ERIC BERNARD SHIELDS)
)
Plaintiff,)
)
v.) No. 4:11CV14 HEA
)
FEDEX KINKO, et al.,)
)
Defendants.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon the application of Eric Bernard Shields for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915(a). The Court finds that plaintiff is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief may be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *Jackson Sawmill Co. v. United States*, 580 F.2d 302, 306 (8th Cir. 1978).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must

also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 32 (1992).

The complaint

Plaintiff brings this action pursuant to 42 U.S.C. § 2000e-5 (Title VII); 42 U.S.C. §§ 12101, *et seq.* (American with Disabilities Act of 1990 ("ADA")), and 29 U.S.C. §§ 701, *et seq.* (Rehabilitation Act of 1973 ("RA")). The named defendants are FedEx Kinko, Bryant Coleman, and Jeff Perrin. Plaintiff alleges, as follows: "Documents being shredded and/or destroyed with interference of the FBI. Investigation to determine that of the charges with [sic]."

Plaintiff's allegations are nonsensical and wholly fail to state a claim or cause of action under Title VII, the ADA, or the RA. As such, this action will be dismissed as legally frivolous.

In accordance with the foregoing,

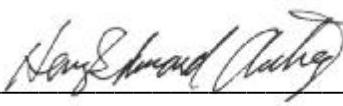
IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [Doc. #1] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because the complaint is legally frivolous and fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B).

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [Doc. #4] is **DENIED** as moot.

A separate order of dismissal shall accompany this memorandum and order.

Dated this 14th day of January, 2011.


HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE